

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF CRIMINAL INVESTIGATIONS

REPORT OF INVESTIGATION

LDWSF

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09/25/89

1. TITLE Pioneer	2. CONTROL NUMBER 86-X-4-4 #16 34W
3. PERIOD COVERED	4. REPORTING OFFICE Seattle 9/4/86

SYNOPSIS:

Reference is made to ROI 86-X-4-4 #13 by S/A Commodore L. Mann reporting the execution of a federal criminal search warrant at Pioneer Construction, 5975 E. Marginal Way S., Seattle, WA on 9/3/86. Reference is further made to ROI 86-X-4-4 #15 by S/A Dixon McClary reporting the interview of Bob Tea on that same date.

At approximately 4:45 PM on 9/3/86 S/A's Gerd Hattwig and Dixon McClary went to Pioneer Construction, address as above. There agents were directed by a receptionist, to the office of Ronald E. Summers, Operations Manager. Upon meeting Summers, S/A Hattwig identified the agents and presented Summers with a certified copy of the above referenced search warrant. S/A Hattwig proceeded to explain the search warrant and search warrant process to Summers. Summers then interrupted and summoned James A. Repman, President, from another part of Pioneer Construction offices.

When Summers and Repman returned, S/A Hattwig again explained the search warrant and search warrant process. At that time Repman was in possession of the certified copy of the search warrant previously presented to Summers. Shortly thereafter, Repman directed a secretary to transmit a copy of the search warrant to his corporate attorneys located in Portland, OR.

Both agents explained to Repman and Summers that the search warrant was directed at a premises and that no one at Pioneer Construction was under arrest or in custody. All Pioneer employees were free to go about their duties and leave at will. Both Repman and Summers acknowledged and stated that they would cooperate in any way possible.

Agents explained, in essence, that they were investigating alleged water pollution from the Pioneer facility at the truck wash area. S/A McClary asked if Pioneer had an NPDES permit. Summers replied in the negative. S/A McClary asked if Pioneer had applied for an NPDES permit. Summers replied in the negative. S/A McClary asked if Pioneer intended to apply for an NPDES permit. Summers again replied in the negative. Summers then responded that he had considerable experience in obtaining and complying with an NPDES discharge permit at Pioneer's Portland facility and that "quite frankly it's a real pain in the ass." Summers continued that Pioneer recycled its wash water at the E. Marginal Way facility and that they didn't have any intentional discharges. Summers added that they had had a problem with surface runoff but that problem was being fixed. Summers commented that it was very difficult not to have an occasional discharge when the facility was located directly on the water.

REPORT MADE BY SAIC Dixon McClary	DATE 9/28/86
REVIEWING OFFICIAL	DATE

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At that time Repman departed Summers' office with the stated intention of telephoning his corporate counsel. Summers then agreed to accompany S/A McClary to the truck wash/recycle area. As the two left the office building, Summers asked S/A McClary if the agents had "brought the divers this time" (an obvious reference to a search warrant executed at Marine Power & Equipment in 2/85).

Summers led S/A McClary to an area east of the truck wash/recycle facility. There Summers pointed out approximately 15-20 concrete forms. Summers explained that the forms were used to contain leftover concrete remaining in the returning trucks at the end of the day. The concrete would harden into "ecology blocks" which were sold by Pioneer for use as dividers and retaining walls. When all the forms were in use, Summers stated that concrete remaining in returning trucks was deposited into the truck wash/recycle facility.

Summers continued that Pioneer had been visited by an inspector from a regulatory agency. That inspector reportedly identified a surface runoff problem in the area of the "ecology blocks." Summers stated that Pioneer was fixing the problem by completing a small concrete curb between the "ecology block" area and the river. The curbing was intended to channelize the runoff to a holding basin. Liquids in the basin would then be transferred to the truck wash/recycle area by means of a sump pump. Summers pointed out the holding basin. The basin was observed to be a corrugated aluminum pipe, approximately 5 ft. in diameter and approximately 5 ft. tall, with a concrete base. Summers stated that the basin had been installed approximately one month ago and was not completed at this time. The aforementioned curbing directed runoff to the unfinished basin. Considerable erosion was evident from the end of the curbing around the basin and into the river. Summers acknowledged that the erosion indicated discharges were occurring to the river.

S/A McClary asked Summers if the regulatory agency had advised that discharges of a pollutant were prohibited without a permit. Summers said that he knew a permit was required to discharge. Summers continued that the regulatory agency had sent him a letter with an NPDES permit application attached. Summers added, however, that he had not applied for the permit or answered the letter because he had lost it. Summers stated that he had looked everywhere without success. Summers mused that the search warrant could result in him finding the letter and the application.

Summers then led S/A McClary to the truck wash/recycle area. On the west side was a concrete pad sloped toward a concrete retaining wall which would channelize water in the direction of the aforementioned recycle area. Returning concrete trucks were washed out using recycled wash water and/or fresh water. Residual concrete was obviously washed out of the trucks. Larger amounts of concrete were also discharged into this area when the "ecology blocks" were in use. Recycled wash water was available to the trucks by means of overhead pipes which were fed by a tall reservoir over the recycle area. Truck washings, including concrete, sand and gravel, would flow in an easterly direction along the concrete wall into a pit containing a large auger. The turning auger separated the solids (sand, gravel and rock) to a great degree from the liquids. Solids, with some liquids, moved through the auger into a pit where a frontloader would periodically scoop them up and stockpile them nearby. Liquids, with

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some solids, moved through the auger and into a channel which led to a settling pond. If the system was working properly, a float valve in the settling pond would automatically turn on a sump pump when the liquids rose to a predetermined level. The sump pump would move liquids from the settling pond into the tall reservoir over the recycle area. Recycled wash water in the reservoir could then be reused to wash trucks or reportedly be pumped into the concrete production facility. The entire truck wash/recycling area was divided from the riverbank and river by the above referenced concrete wall.

S/A McClary asked Summers to accompany him out on a wire mesh catwalk (previously described in ROI 86-X-4-4 #15. On the catwalk S/A McClary pointed out a hole in the concrete wall. The hole was loosely covered with a metal plate. There was an approximate 1" to 1 1/2" gap between the metal plate and the concrete wall. S/A McClary asked Summers for an explanation. Summers stated that the hole was obviously manmade and would allow a discharge from the truck wash/recycle area when the liquids rose to that level. Summers acknowledged that there were marked stains on the concrete around the hole indicating discharges had been occurring. Summers threw an object into a puddle of liquids beneath the hole. Summers noted that there had been an absence of rain for a considerable period of time and the liquids beneath the hole clearly indicated a recent discharge. Summers concluded by stating that he had never been out on the catwalk before and therefore had never closely viewed the hole.

Leaving the catwalk, Summers stated that approximately two to three months ago he was at the new Pioneer Construction warehouse across Slip 2. At that time Summers reportedly looked over at the concrete production facility and noted a discharge occurring from the truck wash/recycle area. The discharge was coming from the area of the catwalk and was running down the riverbank and into the river. Summers stated that he returned to the concrete production facility and immediately told Bob Tea to stop the discharge and plug the hole. Summers stated that he did not check with Tea thereafter to determine if the work was done.

The interview was temporarily interrupted by the arrival of Bob Tea. The interview of Bob Tea is reported in 86-X-4-4 #15. Summers, however, accompanied S/A McClary and Bob Tea to the vicinity of a bypass gate located in the truck wash/recycle area. Tea's observations and statements about the bypass gate are reported in the above referenced ROI in paragraph 7 and 8. Summers made the same observations relative to the operation of the gate. Summers noted that the gate was operated from the top by a hydraulic cylinder. The shaft of the hydraulic cylinder was very dirty with the exception of the top approximate 3 inches which was clean and shiny. Summers stated that the clean portion of the hydraulic cylinder shaft could only mean that the gate had recently been used. Following the interview of Bob Tea, S/A McClary returned to his discussions with Ron Summers. S/A McClary asked if Summers had indeed instructed Tea to plug the hole in the concrete wall and stop the use of the bypass gate. S/A McClary also reminded Summers that such instructions would mean Summers had seen two discharges instead of one. Summers responded that he did not specifically recall how many discharges he had seen. Summers said that he had definitely seen one but perhaps two. Summers stated that he did not specifically recall issuing instructions to Tea relative to the hole and bypass gate but could have. Summers stated that he recalled returning to the cement production facility and telling Tea to stop discharging.

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Summers stated that it was practically impossible to have no discharges to the river when the plant was located directly on the water. Summers added that none of the discharges were intentional. Summers jokingly added that if anyone were going to jail for the discharges it should be Jim (Repman).

Summers stated that Pioneer operated facilities at E. Marginal Way, Harbor Island, Fairview, Maury Island, Tacoma, and Portland. Summers stated that he and Tea had operational responsibilities at each facility. Summers continued that Pioneer intended to consolidate some of those cement operations into an expanded E. Marginal Way facility. To that end, Summers stated that he had been working on obtaining a shoreline permit. Summers continued that getting an NPDES discharge permit for the facility would be unacceptable because of the high pH of the truck washings. Summers stated that it would be Pioneer's intention to recycle all their truck washings and have no waste discharges.

Summers and S/A McClary returned to the Pioneer Construction offices. Upon returning to the offices, S/A McClary learned that two attorneys, representing Pioneer Construction, from Bogle and Gates were present. The attorneys were Charles R. Blumenfeld and Linda Christopherson.

At approximately 9:30 PM S/A McClary asked Summers to again accompany him into the "yard." Summers, along with Linda Christopherson, agreed. The three then walked to the vicinity of the truck wash/recycle area. Near that area was a ground level concrete doorway. Through the doorway was a ramp leading down at an approximate 40° angle. At the end of the ramp was a concrete sump. There was a hose in the sump which was connected to some pipes and related valves. The hose was running.

An underground concrete hallway led away from the sump. In the hallway was a conveyor belt with sand and gravel debris. Over the conveyor belt were several chutes. Summers explained that above each chute was a pile of sand or gravel. A chute was manually opened to allow that material, when needed, to fall on the conveyor belt. The conveyor belt, when running, would then transport the raw materials down the hallway and then up into the concrete production facility.

Summers was asked to explain the sump and where the liquid was flowing. Summers stated that he did not know where the liquid was going and that it could have been going to the sewer or it could have been going "straight out" (to the waterway). Summers continued that he had only been at that location (E. Marginal Way facility) for approximately 6 months and he was finding out things about the facility everyday.

Summers, Christopherson, and S/A McClary then examined the concrete hallway with the conveyor belt. All three agreed that the hallway was essentially sloped toward the aforementioned sump and that any wash down water or storm water would flow to the sump.

S/A McClary subsequently pointed out to Summers and Christopherson that a dye test of the sump indicated that it discharged to Slip 2 just below the area

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where the ecology blocks were located. Summers, Christopherson and S/A McClary observed the discharge and then returned to the office spaces.

Agents departed Pioneer Construction at approximately 10:25 PM.